

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

AARON MULVEY,
*individually, and on behalf of himself and all
others similarly situated individuals,*

Plaintiff,

v.

VERTAFORE INC.,

Defendant.

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Civil Action No. 3:21-CV-00213-E-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

Before the Court is Defendant Vertafore Inc.’s Motion to Dismiss Plaintiff’s Third Amended Complaint, which sought to dismiss Plaintiff’s claims based on standing and failure to state a claim. (Doc. 47); *see* Fed. R. Civ. P. 12(b)(1) (“lack of subject-matter jurisdiction”); Fed R. Civ. P. 12(b)(6) (“failure to state a claim upon which relief can be granted”). The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Plaintiffs requested an extension of time to file objections. (Doc. 62). However, Plaintiff, thereafter, timely filed objections to the United States Magistrate Judge’s findings, conclusions, and recommendation on September 6, 2022. As such, Plaintiff’s requested extension, (Doc. 62), is DENIED as moot.

The District Court reviewed de novo those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. The Court therefore (i) DENIES Vertafore’s motion to dismiss under Rule 12(b)(1) but (ii) GRANTS

Vertafore's motion to dismiss under Rule 12(b)(6). The Court shall dismiss Plaintiff's claims with prejudice by separate judgment.

Consequently, the Court DENIES as moot Plaintiff's Motion for Class Certification, (Doc. 23). *See Conditt v. Owens*, 457 F. App'x 420, 422 (5th Cir. 2012) ("we also note that the dismissal of Conditt's complaint on its merits mooted any request for class certification. As a result, we also deny his motions on appeal for class-action certification and appointment of class-action counsel.").

SO ORDERED.

7th day of February, 2023.

A handwritten signature in black ink, appearing to read 'Ada Brown', is written over a horizontal line.

ADA BROWN
UNITED STATES DISTRICT JUDGE